

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Improving Public Safety Communications)	
in the 800 MHz Band)	WT Docket No. 02-55
)	DA 03-19
Consolidating the 900 MHz Industrial/)	DA 03-163
Land Transportation and Business)	
Pool Channels)	

To: Chief, Wireless Telecommunications Bureau

COMMENTS OF AMEREN CORPORATION

Raymond A. Kowalski
Eric J. Schwalb
TROUTMAN SANDERS LLP
401 Ninth Street, N.W., Suite 1000
Washington, DC 20004-2134
(202) 274-2950 (telephone)
(202) 274-2994 (fax)

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SUMMARY

The Supplemental Comments propose an expensive and burdensome relocation and rebanding of virtually every licensee in the 800 MHz band. Although no licensee will lose spectrum under the proposed band plan, several parties, including B/ILT licensees like utilities, will have the function of their licenses diminished by the plan. Thus, for example, utilities will have many of their licenses placed in a guard band where they will be subjected to harmful interference and required to alter the power and coverage of their channels. To return their networks to full coverage, utilities will be required to add transmitter sites or depart from the guard band. Neither of these costly options, however, is to be reimbursed by the terms of the proposed band plan.

Equally as troubling as the band plan's lack of compensation for various costs imposed on private wireless entities is the plan's overall funding scheme. Established with a scant three percent down payment, the \$850 million band plan sought in the Supplemental Comments asks all entities in the 800 MHz band, including public safety and Critical Infrastructure, to take on faith and credit that the plan will be able to meet its objectives and that Nextel Communications, Inc., the plan's primary beneficiary, can afford its cost. And although the plan offers collateral in the form of licenses yet to be acquired by Nextel, it makes no assurances that the assets of the corporations established to hold those licenses would be protected from creditors should Nextel become insolvent. Worse, the plan underfunds the costs incurred by private wireless and fails to make any assurances as to what will occur to the rebanding process in such an event.

If the Commission is to implement a band plan to remedy the problem of interference in the 800 MHz band, it must ensure two things. First, every licensee should be made no worse for its move. This includes not simply an equitable spectrum swap, but also a trade that provides a

licensee with the same protections against interference, the same power levels, and the same coverage, as the forfeited license. Second, all rebanding and relocation costs should be funded. Any band plan will not succeed unless all costs are paid and the plan can fully be implemented. Therefore, the Commission should consider setting strict guidelines as to what costs will be funded, but also requiring that such costs be compensated without limitation until the band plan's completion.

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Ameren Corporation (“Ameren”), by its counsel, and pursuant to the Commission’s Public Notices, DA 03-19 and DA 03-163, released January 3 and 16, 2003, respectively, hereby respectfully submits comments regarding the “Supplemental Comments” filed by several parties to this proceeding.¹

Ameren operates an expansive radio network in the 800 MHz band that is an integral part of its provision of electric and gas service to over 2.4 million customers across a 51,000 square mile service area in Missouri and Illinois. In fact, due in large part to Ameren’s ability to increase employee service and response efficiency through the use of its 800 MHz radio network, Ameren has enjoyed a steady increase in customers over the last fifteen years while reducing its workforce by more than 20 percent. Because the reliability

¹ Improving Public Safety Communications in the 800 MHz Band, *Notice of Proposed Rulemaking*, WT Docket No. 02-55 (rel. Mar. 15, 2002).

of this network could be jeopardized by various changes to the 800 MHz band suggested in this proceeding, Ameren files these comments regarding the Supplemental Comments.

I. The Commission Has Not Been Presented A Consensus Plan.

Although Ameren has raised in each of its previous comments in this proceeding the objection that the plan offered by the so-called “Consensus Parties” should not be deemed a “Consensus Plan,” the issue must be raised anew in light of the joint parties’ latest claim that their plan is a “comprehensive solution that *reflects the participation and contributions of the full range of licensees* in the 800 MHz Land Mobile Radio band.”² In fact, no consensus exists because one of the largest groups of licensees, utilities, has been offered no chance to participate (save through the filing of comments in this proceeding) in the crafting of this plan.

Fortunately, the Commission has sought input from other licensees in the 800 MHz band, and appears to recognize hyperbole when it sees it: “Although the parties style themselves the ‘Consensus Parties,’ it should be recognized that ‘consensus’ in the context used here merely denotes that the signatories have reached consensus on the contents of their filing.”³ The same qualification is true of the “Consensus Plan,” which merely recognizes that the dozen or so parties have reached agreement on one proposal for improving public safety communications.

The Commission should ponder further the implications of the fact that neither the parties nor the plan reflects a true consensus. The joint parties claim that their plan “enjoys the support of organizations representing over 90 percent of the 800 MHz Land Mobile Radio licensees affected by CMRS--public safety interference.”⁴ It is not clear, however, what percentage of

² Supplemental Comments at 3 (emphasis supplied).

³ Wireless Telecommunications Bureau Seeks Comment on ‘Supplemental Comments of the Consensus Parties,’ Filed in the 800 MHz Public Safety Interference Proceeding - WT Docket No. 02-55, *Public Notice*, DA 03-19, n.3 (rel. Jan. 3, 2003).

⁴ Supplemental Comments at 3.

entities affected by CMRS--*B/ILT* interference are represented by the plan. As Ameren and other parties have noted in previous comments, CMRS operators have interfered not only with public safety, but also with Critical Infrastructure (“CI”) companies who rely on their radio systems to the same extent as public safety entities. Given that utilities have not joined the joint parties’ plan, Ameren suspects the number of parties affected by CMRS-B/ILT interference that have subscribed to the joint parties’ plan rises neither to 90 percent nor to a consensus.

The Commission also should view the plan with a watchful eye toward the conditions placed upon entities, like utilities, not invited to the drafting table. As discussed in more detail below, it is clear that the lack of utility input has led to several provisions in the plan that relegate utilities to inferior status in the 800 MHz band.

II. Several Funding Concerns Underlie The Supplemental Comments.

A. Nextel’s Funding Mechanism Is A Chimera.

The Supplemental Comments address the most glaring concern raised by Ameren in its previous comments and reply comments, namely, the lack of funding for the relocation and rebanding costs of private wireless licensees. Initially, Nextel Communications, Inc. (“Nextel”)⁵ offered \$500 million to cover the costs of public safety relocation and rebanding, but offered nothing to private wireless, believing the benefits of the move were sufficient compensation. Ameren and others disagreed that there was such a benefit and noted, moreover, that \$500 million was not enough to cover public safety. With the Supplemental Comments, Nextel not only has increased its funding for public safety relocation by \$200 million (to a total of \$700 million), but also has included \$150 million to cover the rebanding or relocation costs to be incurred by private wireless entities.

⁵ Ameren reiterates its concern expressed in earlier comments that Nextel has failed to account for the responsibility of, or benefits to, Nextel Partners under the band plan.

The details of Nextel's funding commitment, however, are disturbing. Easily the most troubling aspect is Nextel's warning that all funding will evaporate should the Commission fail to incorporate the Supplemental Comments without alteration.⁶ As Ameren and dozens of other commenting parties have shown, the joint parties' plan is not without fault and can significantly be improved. The Commission should not permit Nextel to instigate this proceeding, coax hundreds of parties into spending millions of dollars to critique a proposal that will affect their licenses and benefit Nextel, and then pull its funding should any provision be altered that Nextel believes "substantially" alters its original plan.

Even presuming the plan goes forward as Nextel demands, the details of its funding mechanism are suspect. Nextel offers a scant \$25 million in cash to instigate a retuning effort it anticipates will cost \$850 million--a deposit amounting to only 2.9 percent of the plan's total cost. The remainder of the funding, Nextel alleges, will be secured by the establishment of holding companies that will possess the 1.9 GHz frequencies Nextel hopes to receive in this proceeding, whose assets can be liquidated should Nextel be unable to fulfill its funding commitments. Yet, Nextel does not yet possess these assets it pledges and any liquidation would be a time consuming and burdensome process.⁷ Moreover, Nextel makes no assurances that, should it become insolvent, its creditors will not be able to pilfer these shell corporations made up exclusively of Nextel's assets.

⁶ See Supplemental Comments at 4 ("Any material modification of the Consensus Plan would eliminate the voluntary commitments of and cooperation among the affected licensees indispensable to its successful and expeditious implementation."); *see also* id., n.6 ("Nextel's funding offer was and is conditioned on the Commission adopting the comprehensive Consensus Plan for correcting CMRS-public safety interference substantially as proposed...").

⁷ Nextel also fails to account for the worth of the 1.9 GHz licenses, perhaps knowing that if it were to disclose the value of the 1.9 GHz assets it seeks to acquire, its \$850 million in funding would seem a pittance.

Nextel also claims that its funding commitment is “cemented” by its contribution of its 700 MHz licenses.⁸ This claim should be of no moment to the Commission, as it is the forfeiture of these assets that would permit Nextel to gain the 1.9 GHz licenses. Nextel cannot honestly claim both sets of assets.

The Commission should not permit Nextel to instigate on credit a massive, complex, expensive and burdensome proceeding. If the Commission is to implement Nextel’s band plan, it should ensure that Nextel has the ability to pay for the rebanding it proposes by requiring Nextel to pledge in cash far more security than 2.9 percent of the \$850 million bill. Ameren suggests that Nextel should place into escrow no less than twenty percent, or \$170 million, of the band plan’s projected total cost prior to the beginning of any such band plan.

B. \$150 Million Will Not Fully Compensate Private Wireless Rebanding Costs.

Although pleased that Nextel has pledged \$150 million to the rebanding costs of B/ILT licensees, Ameren is not convinced that the pledge will cover the costs to the entire class. The Supplemental Comments estimate of \$150 million is based in large part upon a questionable assumption that only five percent of B/ILT equipment will have to be replaced in the course of rebanding.⁹ Ameren estimates that rebanding would require a replacement of at least ten percent of its radio equipment and expects that many CI entities with older systems will have to replace considerably more equipment. Ameren estimates its cost to replace these devices, as well as the manpower needed to effectuate the rebanding, would cost an estimated \$500,000-\$700,000--presuming one rebanding would suffice.

Ameren also notes that the \$150 million does not appear to cover any additional costs that entities who are placed in the guard band may incur by having to alter their systems to deal

⁸ See Supplemental Comments at 8.

⁹ See *id.* at Appendix A-4.

with reduced interference protection and coverage occasioned by higher thresholds at the upper end of the guard band. If these costs are included, and Ameren believes they must be, the costs of rebanding to B/ILT licensees will far surpass the \$150 million projection.

Because of the way in which the rebanding plan will progress, namely, in descending order of population in a geographic region, Ameren is concerned that its geographical service areas, which fall at 18th and 28th,¹⁰ will place it in a position to receive little, if any, funding should licensees in larger markets exhaust the \$150 million.

Similarly, the Commission should consider what will occur if funding exists for public safety rebanding and relocation in a region, but has been extinguished for the B/ILT licensees. Ameren is further troubled by the notion that one geographic region might switch to the new alignment, but that an adjacent area may not. This could occur if, for example, funding exists to reband the “Metro Chicago” (ranked 10th) region but is exhausted before the scheduled rebanding takes place for entities in the adjacent “Illinois” service area, where Ameren operates, which ranks 28th in priority. Even more perplexing would be a scenario where the rebanding process were to be abandoned for lack of funding after Missouri (ranked 18th) was rebanded, but before Illinois (ranked 28th) was completed. In such an event, Ameren would be left with parts of its system rebanded and other parts not.

The band plan is not at all clear whether, in situations like these, rebanding must go forward, and if so, who is to pay these costs. Ameren submits that it would be unfair to private wireless operators in smaller markets to have no funding available and to be forced by adjacent market shifts to have to reband at their own cost. Given these concerns, Ameren suggests that no limit should be placed on the level of reimbursements required of Nextel. Only without such a

¹⁰ See *id.* at E-1 (Missouri has a priority of 18, Illinois of 28).

cap can all entities, including both public safety and private wireless, be assured that their costs will be covered.

C. The 900 MHz Band Is Not A Viable Option For Relocating Utilities.

As an alternative to compensation, the joint parties again seek to coax private wireless entities to vacate the 800 MHz band by providing such licensees with a 2-for-1 swap of spectrum should they move to the 900 MHz band. Ameren opposed this move in earlier comments on the grounds that the additional spectrum offered did not outweigh the costs of an unfunded move. The proposed band plan attempts to address this issue by providing limited compensation for such a move. Specifically, licensees would receive the costs for which they would have been reimbursed had they rebanded in the 800 MHz band.¹¹ The actual, and substantially larger costs of relocating to 900 MHz, however, would not be reimbursed. The additional costs of relocating to 900 MHz, presumably, would be compensated indirectly by the benefit of acquiring increased spectrum provided by the 2-for-1 swap. The 2-for-1 swap would not be immediate, however, as licensees would receive an equal trade when moving, and would receive the second installment after the final relocation is completed, several years later. The plan anticipates, however, that a party willing to waive reimbursement of costs could receive the full 2-for-1 swap immediately.

Ameren does not believe that the benefit of additional spectrum at 900 MHz outweighs the considerable costs incurred in evacuating the 800 MHz band. The 900 MHz band is not equivalent to the 800 MHz band and is not a preferred band to communicate in regions with elevated terrain. For example, to serve many rugged portions of its service area with channels in the less robust 900 MHz band, Ameren estimates that it would have to increase its number of sites by forty percent (from 61 to 100) to achieve the same coverage footprint currently available with its 800 MHz system.

In previous comments, several utilities have noted that the cost of moving to the 900 MHz band is considerable.¹² Given the expense of gaining new equipment, building additional sites, and reengineering an entire network, Ameren anticipates a cost well in excess of \$30 million to move from the 800 MHz band to the 900 MHz band. To Ameren, such a cost is not worth the additional spectrum that would be available several years after the conversion has taken place. In short, such a shift is not a viable or attractive alternative for CI licensees.

III. Critical Infrastructure’s Mandatory Inclusion In The Guard Band Is Inequitable.

An integral element of the band plan offered by the joint parties is the implementation of a guard band that will separate “high-site and low-site system architectures into two distinct spectrum blocks.”¹³ Although Ameren appreciates the importance of the guard band, it disagrees with several of the plan’s specifics regarding the guard band.

Ameren disagrees primarily with the mandatory relocation of CI entities to the guard band (channels 321 – 400) as a preferred method of clearing the new NPSPAC frequency block (channels 1 – 120) in Phase I of the proposed plan. As proposed, the guard band will require those located within its parameters to operate at higher “on-the-ground” power levels in order to gain protection from interference from those outside the guard band. Although these limitations may be acceptable to certain licensees, such as those operating manufacturing plants or warehouses where the limited operational area (often less than a two mile radius around the site) covered by the site allows for insuring the higher “on-the-ground” power without redesign or modification of their present system, they will not work for entities like Ameren who operate

¹¹ See id. at 13.

¹² See, e.g., Comments of American Electric Power Co., Inc., WT Docket No. 02-55 (filed May 6, 2002) at 10 (estimating cost to move to 900 MHz at \$75 million); Comments of Carolina Power & Light Co., et al, WT Docket No. 02-55 (filed May 6, 2002) (noting that Texas Utilities spent \$40 million to convert facilities to the 900 MHz band).

¹³ Id. at 9.

wide-area systems that will not be able to achieve the required, higher power levels throughout the current coverage area (typically 20 – 25 mile radius around the site) and who face detrimental effects should interference mar the system's performance.¹⁴

The placement of Ameren's licenses into the guard band will hinder the operations of Ameren's wide-area system unless Ameren expends considerable resources to remedy the problem. The joint parties' plan proposes to alter the acceptable signal threshold as frequencies approach 861 MHz. Thus, for example, although a reasonable, -98 dBm is permitted at 859 MHz, the standard rises to a far more limited -65 dBm at 860.5 MHz. This would reduce the interference protected operational coverage area for one of these frequencies by approximately 75 percent by reducing the interference protected communications radius for the site from approximately 20 - 25 miles to approximately 10 – 12 miles. Of Ameren's sixteen frequencies that would be relegated to the guard band and affected by this alteration, at least eight frequencies would not be protected from CMRS interference unless Ameren were to redesign the sites using these frequencies to provide the required -65 dBm in their originally designed geographic coverage areas. Under the band plan, Ameren would have to choose between operating its various channels with varying amounts of interference protected coverage area or adding additional sites and operating portions of its network in simulcast for sites with frequencies at the higher end of the guard band to return its system to the same interference protected coverage footprint that existed prior to the implementation of the band plan. The first choice is in fact not an option for Ameren, however, as its wide-area system is premised upon the existing power and coverage levels of its stations. Thus, Ameren would have to add sites and

¹⁴ As Ameren has noted in several previous comments, utility licenses are used to assure the delivery of the nation's lifeblood--electricity, natural gas and water--in all conditions and at all times. No less than public safety entities, utilities require absolute reliability in their communications systems.

convert parts of its system to simulcast, all at considerable costs that would not be covered under the plan's funding mechanism.¹⁵

For these reasons, Ameren disagrees that CI frequencies, including campus systems, should be forced into the guard band and believes that CI licensees could more safely be placed in the 121-320 channel block. If, however, the Commission believes the inclusion of certain CI frequencies in the guard band to be necessary to the implementation of any band plan adopted, Ameren submits that CI entities should be entitled to evacuate the guard band without the lengthy and burdensome showing proposed by the Supplemental Comments.¹⁶ The guaranteed ability to move from the guard band, and the ability to do so without a lengthy show-cause proceeding, are necessary to permit CI entities like Ameren to continue to operate wide-area systems without interference and as originally designed. In addition, and because CI entities have not chosen to be placed in the guard band, where such moves out of the guard band are necessary, the costs of such a move should be reimbursed by the fund.¹⁷

IV. Other Matters Of Significant Concern To Ameren.

A. White Space

In previous comments Ameren disagreed with the preservation of Nextel-vacated spectrum for use by public safety for five years beyond the date of the spectrum's surrender. With their Supplemental Comments, the joint parties continue to ignore Ameren's concern and

¹⁵ Ameren urges the Commission that if it forces licensees to alter their operations as described above, that the band plan should provide compensation to entities like Ameren forced to incur such additional costs.

¹⁶ See Supplemental Comments at 10, n.14 ("The Relocation Coordinating Committee[] will consider requests by non-public safety systems licensed in the Guard Band to relocate outside the Guard Band should a particular licensee demonstrate that the nature of its operations would significantly benefit from relocating out of the Guard Band.").

¹⁷ See *id.*; see also *id.* at Appendix C-20 ("Non-public safety licensees electing to relocate from the Guard Band shall not be eligible for cost reimbursement."). It defies logic, however, that the frequencies that need to be protected most, and thus need to be removed from the Guard Band where they imprudently were placed, would not receive compensation for moving to safer spectrum.

continue to fail to articulate any rationale for why the “white space” must be kept from licensees like utilities for a period of five years.¹⁸

Initially, Ameren suggested that a two-year protected period for public safety would be appropriate to allow such entities to assess their spectrum needs.¹⁹ It appears from the details of the Supplemental Comments, however, that even a two-year period is unnecessary. The Supplemental Comments anticipate a coordination process that will take several years to complete. As such, public safety entities will have ample time to contemplate their spectrum needs as the band plan takes effect. Therefore, an additional five year protection appears excessive.

Moreover, and when viewed in conjunction with other provisions of the Supplemental Comments, the proposed five year preservation of the white space is especially damaging to CI entities like Ameren who have an existing and future need to expand their networks in the 800 MHz band. When combining the Supplemental Comments’ proposed freeze on licensing of all 800 MHz licensees with the time required for coordination to occur--and then adding an additional five year prohibition on the acquisition of vacated spectrum-- Ameren’s ability to expand its system will be halted for at least seven years.

Ameren suggests that such a period is unreasonable and unnecessary. The Commission should provide that, once a region is coordinated, any remaining white space will be available to CI and public safety entities on an equal basis.

B. Ameren Must Remain Whole After the Relocation.

Ameren cannot support a band plan that leaves it in a worse position than the status quo. Thus, Ameren suggests to the Commission that any band plan implemented must require that all

¹⁸ See *id.* at 18.

¹⁹ See Comments of Ameren Corp., WT Docket No. 02-55 (filed Sept. 23, 2002) at 10.

new frequencies acquired under the rebanding process would be the technical equivalent to a party's existing frequencies that are not impacted by the rebanding process. Thus, for example, the new frequencies must be licensed with the same transmit/ERP power levels, co-channel (and, preferably, adjacent channel) protection, and emissions specifications. Ameren would be unable to support any plan that would require different operating specifications (transmit/ERP power levels, co-channel, and emissions specifications) and provide different interference protection for each frequency or group of frequencies licensed at a given site, based on whether the frequencies in question were licensed before or acquired through the rebanding process.

C. Frequency Coordination

The Supplemental Comments go to great lengths to establish procedures to ease the coordination process by, for example, establishing a Relocation Coordinating Committee ("RCC") to perform various licensing functions. Ameren is concerned, however, that the plan confers too much unilateral power on the RCC to prepare and file license applications for entities involved in the coordination process. Specifically, Ameren is concerned with the plan's provision that "[o]nce an incumbent licensee and Nextel reach agreement on these issues and execute a relocation agreement, the RCC will prepare the necessary license applications," and the "belie[f] that the RCC should be allowed to file non-public safety applications directly with the Commission and, if necessary, be designated as a special frequency coordinator for that purpose."²⁰

Although Ameren appreciates the function of the RCC, it is opposed to the breadth of power granted the entity over the filing of licenses for other entities. Moreover, Ameren is concerned that, based on the limited information given regarding the RCC's function, that non-public safety entities will have no say in the filing of their applications and may not, in fact, even

be granted the opportunity to review said applications. Ameren suggests that the RCC should be required to work with licensees, as well as other coordinators the licensee may use, to ensure that licenses submitted to the Commission are correct. This process will also permit the licensee to verify the impact of the action of the RCC on non-relocating channels.²¹

²⁰ Supplemental Comments at 22.

²¹ Ameren also notes that the Supplemental Comments do not make clear what occurs in the instance where a license will have channels that must be relocated and those that will not be moved. Ameren asks the Commission to ensure that when licenses are set to expire at the end of Phase I, that non-relocating channels will be protected and included in the issuance of a new, modified license.

D. Interference Mitigation

Ameren continues to believe that most of the problems that plague the 800 MHz band are the result of conflicting technologies, not conflicting users. Therefore, in previous comments, Ameren has submitted detailed technical standards designed to address the bulk of interference problems in the 800 MHz band.²² These standards seek to remedy not only CMRS-public safety interference, with which the Supplemental Comments appear focused, but also CMRS-B/ILT interference. Ameren asks the Commission to consider whether the problems of the 800 MHz band can be solved through the implementation of better technical standards and *without a costly rebanding and relocation program anticipated in the Supplemental Comments*.

If, however, the Commission believes that certain technical alterations *and* rebanding and relocation are necessary, Ameren wishes to make clear that it does support certain policies and procedures outlined in Appendix F of the Supplemental Comments, with the addition that the entire appendix should address CMRS – B/ILT interference as well as CMRS – Public Safety interference. Ameren especially welcomes the proposed improvements in receiver performance standards, including minimum receiver specifications. Ameren also agrees with the Supplemental Comments’ recommendations for out-of-band emissions for base station transmitters in the 861-896 MHz band.²³

In Section 2.1.1(b), however, Ameren seeks assurances that any frequency swap will result in an equivalent system without any additional terms or conditions, particularly as it applies to the addition of channels to an existing site. Ameren is particularly concerned with the impact of Section 2.1.1(b) on future modifications to an existing site. Specifically, it appears that it would result in a requirement to redesign an entire site and its coverage parameters in

²² See Reply Comments of Ameren Corp., WT Docket 02-55 (filed Aug. 7, 2002) at 3-5. By reference, Ameren incorporates these standards herein.

order to be afforded interference protection from CMRS operators. Without further definitions as to how it would be applied in such instances, Ameren cannot support such a rule.

Finally, Ameren strongly supports efforts to promulgate rules and policies regarding the methods licensees are to use to resolve interference complaints. Ameren suggests that such policies must delineate the specific responsibilities of all parties involved in such a complaint.

CONCLUSION

If the Commission believes that technical solutions will not solve the problems of interference in the 800 MHz band and that an expensive and burdensome rebanding and relocation of incumbents is necessary, it must ensure that the cost of this effort is fully funded by the plan's instigator and primary beneficiary, Nextel, and guaranteed by the submission of a substantial down-payment. The Commission should also ensure that Critical Infrastructure entities, who have been excluded from the negotiations of the Supplemental Comments, are not disadvantaged by the policies adopted in this proceeding. Thus, the Commission should resist attempts to relegate Critical Infrastructure to ill-fitting portions of the band without, at the least, permitting such entities to leave the band easily and with compensation.

With this proceeding, the Commission has the opportunity to benefit every operator in the 800 MHz band. It would be inequitable, however, for the Commission to adopt the

²³ See Supplemental Comments at Appendix F-8.

Supplemental Comments without significant modification to ensure that utilities and other private wireless licensees are not disadvantaged by the actions of a “consensus” to which they were never a party.

Respectfully submitted,

/s/ Raymond A. Kowalski

Raymond A. Kowalski
Eric J. Schwalb
TROUTMAN SANDERS LLP
401 Ninth Street, N.W., Suite 1000
Washington, DC 20004-2134
(202) 274-2950 (telephone)
(202) 274-2994 (fax)

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Attorneys for Ameren Corporation